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SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

V.

JAYVON KEITT,

Defendant
-----X

Docket: 20-cr-0066 (AT)

MOTION TO FILE LATE NOTICE
OF APPEAL PURSUANT TO
FRAP 4(b)(4)

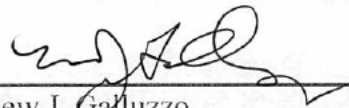
MATTHEW J. GALLUZZO, an attorney admitted to practice before the U.S. District Court for the Southern District of New York, does hereby affirm the following:

1. I am an attorney on the Criminal Justice Act (CJA) panel for the Southern and Eastern Districts of New York.
2. On December 29, 2020, I was "on duty" as the attorney for the CJA panel in the Southern District of New York.
3. On December 29, 2020, I was contacted by Judge Torres' staff about the possibility of representing Jayvon Keitt in connection with an appeal.
4. On December 30, 2020, after speaking with prosecutors to ensure there were no conflicts in my representation of Mr. Keitt, I accepted the assignment.
5. On December 30, Judge Torres entered an order appointing me as Mr. Keitt's attorney for the purpose of an appeal (see document 53)
6. Mr. Keitt's prior attorney filed a motion for compassionate release on December 2, 2020 (see document 47). The government responded to the motion and the Court denied the motion by written order on December 17, 2020 (see document 51).
7. According to the Court's staff, Mr. Keitt wishes to appeal the December 17, 2020 denial by this Court of his prior attorney's motion for compassionate release. However, Mr. Keitt also filed a *pro se* version of this motion received by the Court on December 22 (see document 52).
8. In light of COVID-19 and the holidays, I have been unable to communicate with my client, though I have sent him a letter in the mail since my appointment as his counsel.
9. On January 4, 2021, I called the appellate clerk at the Southern District of New York and was informed that there was no notice of appeal on file for Mr. Keitt. I further communicated with a member of Judge Torres' staff who explained to me that she

believed that Mr. Keitt may have mailed in a *pro se* notice of appeal, but that it had not yet been received.

10. Federal Rule of Appellate Procedure 4 requires that a notice of appeal for an order in a criminal case be filed within 14 days of its entry. Regarding the December 17 denial of Mr. Keitt's motion for compassionate release, that deadline would have passed last week. I now respectfully request that the Court permit me to file the late Notice of Appeal attached to this motion, pursuant to FRAP 4(b)(4), on my client's behalf.
11. I submit that the request is reasonable in light of the change of counsel, the short of amount of delay (four days), the holidays, and the inherent difficulty in communicating with an incarcerated client during the pandemic.
12. Finally, I would note that Mr. Keitt has been previously determined to be without funds to hire counsel. As such, his various fees for the appeal should be waived.

Respectfully submitted,



Matthew J. Galluzzo
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CC:
AUSA Adam Hobson
VIA ECF

Enc.

GRANTED.

SO ORDERED.

Dated: January 4, 2021
New York, New York



ANALISA TORRES
United States District Judge